

# **EXHIBIT C**

IN THE UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION

CITY OF LIVONIA EMPLOYEES' ) Docket No. 09 C 7143  
RETIREMENT SYSTEM, Individually )  
and on Behalf of All Others )  
Similarly Situated, )  
Plaintiff, )  
vs. ) Chicago, Illinois  
THE BOEING COMPANY, et al., ) October 14, 2010  
Defendants. ) 9:00 o'clock a.m.

TRANSCRIPT OF PROCEEDINGS - Motion  
BEFORE THE HONORABLE SUZANNE B. CONLON

APPEARANCES:

For the Plaintiff:

MILLER LAW PC  
BY: MR. MARVIN ALAN MILLER  
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Chicago, Illinois 60603

ROBBINS GELLER RUDMAN & DOWD LLP  
BY: MR. THOMAS E. EGLER  
655 West Broadway  
Suite 1900  
San Diego, California 92101

For the Defendant:

PERKINS COIE LLC  
BY: MR. ERIC D. BRANDFONBRENER  
131 South Dearborn Street  
Suite 1700  
Chicago, Illinois 60603

SULLIVAN & CROMWELL LLP  
BY: MR. DAVID B. TULCHIN  
125 Broad Street  
New York, New York 10004

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Official Court Reporter  
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1 (The following proceedings were had in open court:)

2 COURTROOM DEPUTY: 09 C 7143, City of Livonia  
3 Employees' Retirement System versus Boeing Company, et al.;  
4 motion.

5 MR. MILLER: Good morning, your Honor. Marvin  
6 Miller on behalf of the plaintiffs.

7 MR. EGLER: Good morning, your Honor. Thomas Egler  
8 on behalf of the plaintiffs.

9 THE COURT: Good morning.

10 MR. BRANDFONBRENER: Good morning, your Honor. Eric  
11 Brandfonbrener for the defendants. With me is David Tulchin.  
12 We had filed a pro hac vice application. I provided another  
13 copy to your clerk.

14 THE COURT: I haven't seen it.

15 MR. TULCHIN: Good morning, your Honor.

16 THE COURT: Good morning.

17 I think the Clerk's Office handles this. I don't  
18 know whether a formal motion is necessary anymore but it's  
19 granted, if it is necessary.

20 I've looked at the motion to strike -- well, I've  
21 looked at far more than the motion to strike. I looked at  
22 the motion to dismiss filed by new defense counsel and the  
23 motion is entitled a Motion to Dismiss with Prejudice on the  
24 Basis of Fraudulent Misrepresentations by Plaintiffs and  
25 Plaintiffs' Counsel, Robbins Geller.

1           Since that motion was received -- I was not in  
2 chambers when that motion came in. It was sent to me and the  
3 courtroom deputy was also out one day so we -- it was awhile  
4 before we got the order out. In fact, the order wasn't --  
5 the order with a responsive date for plaintiffs went out far  
6 later than I would have wished. But in the meantime,  
7 plaintiff did file two responses, a preliminary response and  
8 a response. And then when my order came out, they filed a  
9 timely full response.

10           So this motion to strike is addressing the  
11 plaintiffs' first two filings which, given the nature of the  
12 motion that was filed that impugned the professionalism and  
13 integrity of plaintiffs' counsel and plaintiffs, I fully  
14 understand why plaintiffs felt a need to respond as quickly  
15 as possible to such damaging allegations so the motion to  
16 strike is denied.

17           I have considered the motion to dismiss. I've  
18 looked at the investigator's -- the investigator for the  
19 plaintiffs' work product, her notes of interview of the  
20 confidential source, her memo to counsel about her interview,  
21 and I think the characterizations and language in the motion  
22 to dismiss are ill founded if not reckless and the motion to  
23 dismiss is denied.

24           I also find that looking at the history of the  
25 litigation and in particular the response, Boeing's response

1 to the motion to produce the request to produce with a  
2 statement that discovery is stayed pending the third motion  
3 to dismiss suggests that this motion was filed for dilatory  
4 purposes so the motion is denied.

5 I want to tell you, discovery is not stayed. If  
6 there are disputes -- and it looked to me that there was a  
7 mantra -- a non-responsive mantra to each of the requests  
8 made by the plaintiffs for Boeing's files concerning the --  
9 not all requests. There were some limited -- even though  
10 there were objections, there was a limited willingness to  
11 produce several files.

12 Have those been produced?

13 MR. TULCHIN: No, your Honor. This is David Tulchin  
14 for the defendants.

15 We were relying on the automatic stay in the  
16 PSLRA but I understand the Court's views and we're prepared  
17 to produce the stress test files to which the plaintiffs have  
18 referred.

19 THE COURT: All right. If there are any disputed --  
20 well, let me ask you -- I don't want to say "if." Are there  
21 any categories of documents where there's still a dispute as  
22 to whether or not Boeing will produce?

23 MR. TULCHIN: Oh, yes. I believe there are, your  
24 Honor. I think many of the requests were exceedingly broad  
25 and asks for documents that don't pertain in any way to the

1   allegations.

2           THE COURT:  The response to all the requests as I  
3   recall but -- all right.  Well, I am directing counsel to  
4   have a meeting in my attorney/witness this morning and go  
5   through those objections and see if some of the requests can  
6   be narrowed.  I don't think the solution is a mantra response  
7   that everything is overbroad, burdensome, irrelevant; no.  I  
8   think you need to sit down and talk about exactly what files  
9   if -- what requests for production describes a categorization  
10  of files in a way that internal management at Boeing does  
11  not, they use different language or terms, you've got to talk  
12  about it because this is --

13          MR. TULCHIN:  Of course, your Honor.

14          THE COURT:  -- not going to be a shell game.  It is  
15  not going to be a shell game.

16          MR. TULCHIN:  Of course, your Honor.

17          THE COURT:  And in terms of a possible need for a  
18  protective order, I want you to discuss that as well.

19          MR. EGLER:  There's a protective order entered in  
20  this case already, your Honor.

21          THE COURT:  Well, then that's a non-issue.  I'm glad  
22  we have a non-issue in this case.

23          All right.  If you cannot reach an agreement after  
24  your meeting or during your meeting, I am in trial but please  
25  tell Mrs. Rone and I will figure out a time today to see you.

1 I'll figure out a time when the jury is in recess. All  
2 right. Thank you.

3 MR. MILLER: Thank you, your Honor.

4 MR. EGLER: Thank you, your Honor.

5 (WHEREUPON, the Court turned her attention to other  
6 matters on her call; after which the following proceeding was  
7 had in open court at 5:00 p.m.):)

8 COURTROOM DEPUTY: 09 C 7143, City of Livonia  
9 Employees' Retirement System versus The Boeing Company, et  
10 al.

11 THE COURT: Well, good afternoon or should I say  
12 good evening.

13 MR. MILLER: Good afternoon, your Honor.

14 MR. EGLER: Good afternoon, your Honor.

15 MR. MILLER: Judge, Marvin Miller for the  
16 plaintiffs.

17 MR. EGLER: Thomas Egler for the plaintiffs, your  
18 Honor.

19 MR. BRANDFONBRENER: Good evening, your Honor. Eric  
20 Brandfonbrener for the defendants.

21 THE COURT: Yes.

22 MR. MILLER: Your Honor, pursuant to your  
23 instructions this morning, we worked until approximately 4:30  
24 going through all of the requests and the objections. I  
25 think we made pretty substantial progress. There are a

1 couple of open items. Mr. Egler can address those.

2 MR. EGLER: Your Honor, the open items that  
3 defendants -- we have agreed to discuss with defendants are  
4 first at issue about the location of documents at Boeing and  
5 how we can settle that issue either through an exchange of  
6 letters or through a 30 -- a series of 30(b)(6) depositions.  
7 We expect to get that settled forthwith over the next,  
8 hopefully, few days.

9 The second thing is defendants are currently  
10 objecting to producing accounting detail regarding a \$2.5  
11 billion charge Boeing took on the 787 program three months  
12 after the class period based on relevance grounds. They are  
13 examining whether a proposal we made narrowing the amount of  
14 documents will solve the issue.

15 The third thing is whether the defendants should  
16 produce documents for one month after the class period for  
17 five requests. They are objecting to producing any documents  
18 outside of the class period and we are -- they are  
19 reconsidering or considering the issues now.

20 And then the last thing is, the scope of the  
21 individuals for whom documents will be searched at the top of  
22 The Boeing Company -- and I think that relates to two or  
23 three requests that we've agreed to narrow from a broader  
24 scope and are awaiting their proposal with regard to  
25 information about who they're willing to search for or whose

1 files they're willing to search.

2 THE COURT: Well, let me ask you -- and of course  
3 from Boeing, too, but is the discussion regarding resolving  
4 the issues that you've just -- the five issues that you've  
5 just described, is there ongoing discussion? Are the lines  
6 of communication open so it's possible you might be able to  
7 resolve those open issues?

8 MR. BRANDFONBRENER: Your Honor, it's likely. The  
9 underlying -- there were 59 requests and I think we've  
10 resolved -- we had issues on, as the Court saw, on almost all  
11 of them and we worked our way through each of the 59. These  
12 are remaining, I think, small items that I suspect we'll be  
13 able to resolve within the next few days.

14 THE COURT: Well, I would hope so. I would hope so.  
15 Yes.

16 MR. BRANDFONBRENER: Partly, we just ran out of  
17 time.

18 THE COURT: Yes.

19 MR. BRANDFONBRENER: But --

20 THE COURT: Well, I appreciate the hard day you put  
21 in. I put in a long day myself but I'll tell you, probably  
22 yours was in some respects more difficult so -- a lot of  
23 respects more difficult so I appreciate that and I appreciate  
24 your coming to update me on how it's going and I'm glad  
25 that -- glad that there are open lines of communication and

1 congeniality. Thank you.

2 MR. MILLER: Thank you, your Honor.

3 MR. EGLER: Thank you, your Honor.

4 MR. BRANDFONBRENER: Thank you.

5 (Which concluded the proceedings in the above-entitled  
6 matter.)


7

8 C E R T I F I C A T E

9 I hereby certify that the foregoing is a transcript  
10 of proceedings before the Honorable Suzanne B. Conlon on  
11 October 14, 2010.

12

13 /s/Laura LaCien

14   
15 Laura LaCien  
16 Official Court Reporter

October 22, 2010  
Date

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